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STATE OF MICHIGAN



SIXTH PROBATE COURT

THOMAS B. NORTH
PROBATE JUDGE

LUCE COUNTY
Courthouse
County Government Bldg.
407 West Harrie Street
Newberry, MI 49868

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March 21, 2003

Mr. Corbin Davis
Clerk
Michigan Supreme Court
P. O. Box 30052
Lansing, MI 48909

Dear Mr. Davis:

RE: Proposed Amendment of MRE 702
File #2001-29

I am writing to comment on the proposed amendment of MRE 702.

I am overwhelmingly opposed to Alternative B. First, that alternative says "In making that determination, the court shall examine the testimony...." Yet the determination can only be made before the opinion testimony of the proposed witness comes in, based on the foundational proofs. It is impossible for a court to examine testimony before it is given! And if it is allowed to come in first, and then the court later determines it is not reliable, it is too late. The testimony is already known to the trier of fact and is prejudicial.

Further, Alternative B would require so many factors, there simply these days are no longer any additional minutes or seconds available in our crushing dockets and the draconian time lines in the court rules for proofs to come in on these factors, much less for the courts to examine them. If this alternative is adopted, literally the only option our court would have would be to no longer allow any attorneys or parties to ever call any expert witnesses (period) in any cases, because it would be impossible to find any time to go through all the proposed factors in any case! That may be error, but it is reality.

On the other hand, I do not have a major objection to Alternative A since it is arguably not significantly different from the current rule.

Thank you for the opportunity to comment.

Sincerely,

Thomas B. North

Thomas B. North
Probate Judge

TBN:jlr

RECEIVED

MAR 26 2003

OFFICE OF
THE CHIEF JUSTICE

